

19.08.2025
SL No.19
Court No.32
S.Gayen

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

CRR 3741 of 2024

**Musha Khan @ Musa Khan
Versus
Kazi Safikul Sassan**

Mr. Rajdeep Mazumder, Sr. Adv.
Mr. Moyukh Mukherjee
Ms. Sagnika Banerjee
Mr. Koustav Bhattacharjee

...for the Petitioner

Mr. Prantick Ghosh
Ms. Shravani Ghosh

...for the Opposite Party

1. This revisional application has been filed assailing the order dated 22nd July, 2024 passed by the learned Sessions Judge, Barasat, North 24 Parganas in connection with Criminal Revision No. 242 of 2023, thereby affirming the order of the learned Additional Chief Judicial Magistrate, Bidhannagar, North 24 Parganas in connection with Complaint Case No. 2336 of 2019 thereby directing the petitioner to pay a sum of Rs. 12,40,000/- towards purported interim compensation under Section 143 of the Negotiable Instruments Act, 1881 (hereinafter referred to as NI Act).
2. The opposite party filed one application under Section 138 of the NI Act before the learned Additional Chief Judicial Magistrate at Bidhannagar, North 24 Parganas with a prayer for issuing process against the accused person for dishonor of five cheques to the tune of Rs. 62,00,000/- in total.

3. In course of trial, one application under Section 143 of the NI Act was filed before the learned Trial Court and the application was disposed of with a direction upon the petitioner/accused to pay 20% of the cheque amount, i.e. Rs. 12,40,000/- within a stipulated period.
4. Being aggrieved, one revisional application was filed before the learned Sessions Judge at the behest of the petitioner/accused. The learned Sessions Judge affirmed the order holding, *inter alia*, that sufficient reason has been assigned by the learned Magistrate in allowing the petition.
5. The order passed by the learned Sessions Judge has been assailed in this revisional application.
6. Learned senior counsel appearing for the petitioner has submitted that the order passed by the learned Trial Court has not been supported by any reason whatsoever. The learned senior counsel in support of his contention relied on a decision of **Rakesh Ranjan Shrivastava vs. State of Jharkhand & Anr.** reported in **(2024) 4 SCC 419**, wherein the Hon'ble Apex Court specifically held in paragraphs 23 to 27, which are reproduced as follows:-

“23. Even if the Court concludes that a case is made out for grant of interim compensation, the Court will have to apply its mind to the quantum of interim compensation to be granted. Even at this stage, the Court will have to consider various factors such as the nature of the transaction, the relationship, if any, between the accused and the complainant and the paying capacity of the accused. If the defence of the accused is found to be prima facie a plausible defence, the Court may exercise discretion in refusing to grant interim compensation.

24. We may note that the factors required to be considered, which we have set out above, are not

exhaustive. There could be several other factors in the facts of a given case, such as, the pendency of a civil suit, etc. While deciding the prayer made under Section 143A, the Court must record brief reasons indicating consideration of all the relevant factors.

25. *In the present case, the Trial Court has mechanically passed an order of deposit of Rs.10,00,000/- without considering the issue of prima facie case and other relevant factors. It is true that the sum of Rs.10,00,000/- represents less than 5 per cent of the cheque amount, but the direction has been issued to pay the amount without application of mind. Even the High Court has not applied its mind. We, therefore, propose to direct the Trial Court to consider the application for grant of interim compensation afresh. In the meanwhile, the amount of Rs. 10,00,000/- deposited by the appellant will continue to remain deposited with the Trial Court.*

26. *Hence, impugned orders are set aside, and the application made by the complainant in Complaint Petition No. 1103/2018 under Section 143A (1) of the N.I. Act is restored to the file of Judicial Magistrate First Class, Bokaro. The learned Judge will hear and decide the application for the grant of interim compensation afresh in the light of what is held in this judgment. The amount deposited by the appellant of Rs. 10,00,000/- shall be invested in a fixed deposit till the disposal of the said application. At the time of disposing of the application, the Trial Court will pass an appropriate order regarding refund and/or withdrawal and/or investment of the said amount.*

27. *Subject to what is held earlier, the main conclusions can be summarised as follows:*

27.1. *The exercise of power under sub-section (1) of Section 143A is discretionary. The provision is directory and not mandatory. The word “may” used in the provision cannot be construed as “shall.”*

27.2. *While deciding the prayer made under Section 143A, the Court must record brief reasons indicating consideration of all relevant factors.*

27.3. *The broad parameters for exercising the discretion under Section 143A are as follows:*

27.3.1. *The Court will have to prima facie evaluate the merits of the case made out by the complainant and the*

merits of the defence pleaded by the accused in the reply to the application. The financial distress of the accused can also be a consideration.

27.3.2. *A direction to pay interim compensation can be issued, only if the complainant makes out a prima facie case.*

27.3.3. *If the defence of the accused is found to be prima facie plausible, the Court may exercise discretion in refusing to grant interim compensation.*

27.3.4. *If the Court concludes that a case is made out to grant interim compensation, it will also have to apply its mind to the quantum of interim compensation to be granted. While doing so, the Court will have to consider several factors such as the nature of the transaction, the relationship, if any, between the accused and the complainant, etc.*

27.3.5. *There could be several other relevant factors in the peculiar facts of a given case, which cannot be exhaustively stated. The parameters stated above are not exhaustive.*

28. *The Appeal is partly allowed on the above terms.”*

7. *Per contra*, learned counsel appearing for the opposite party has contended that the sufficient reason has been assigned in last two paragraphs of the order and it is further submitted, by reminding the object behind enactment of the provision of Section 143A of the NI Act, that the learned Trial Court rightly invoked the provision of Section 143A of the NI Act considering the prolonged absence of the accused during pandemic period.
8. The ratio of **Rakesh Ranjan Shrivastava** (supra) is that a Court while deciding the prayer made under Section 143A of the NI Act, must record brief reasons indicating consideration of relevant factors.

9. On careful perusal of the order passed by the learned Trial Court, I do not find assignment of any reason in compliance with the guidelines laid down by the Hon'ble Apex Court in ***Rakesh Ranjan Shrivastava*** (supra).
10. In that view of the matter, I find no other option but to set aside the order with a request to the learned Trial Court to rehear the application under Section 143A of the NI Act after giving an opportunity of hearing to both the parties and pass an order with reason in compliance with the principle laid down by the Hon'ble Apex Court in ***Rakesh Ranjan Shrivastava*** (supra) within four weeks from the date of communication of this order.
11. With the above observations, the revisional application stands disposed of.
12. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.
13. Urgent Photostat certified copy, if applied for, be given to the parties upon compliance with all requisite formalities.

(Bibhas Ranjan De, J.)